



GREENWOOD COMMON COUNCIL FEBRUARY 7, 2005 MINUTES

Mayor Charles Henderson called the meeting to order at 7:00 p.m.

The audience recited the Pledge of Allegiance in unison, after which the Rev. Dane Sinn of the Smith Valley Baptist Church led in prayer.

PRESENT:	Council members Bruce Armstrong, Ron Bates, Bill Bless, Ron Deer, John Gibson, Keith Hardin, Jessie Reed; Mayor Henderson; Clerk-Treasurer Jeannine Myers; and City Attorney Shawna Koons-Davis.
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From the audience Don Berry of the Police Merit Commission asked if there would be discussion concerning the new Police Chief. Mayor Henderson said that it would be covered under his items of business.

The City Attorney had distributed her litigation report, which elicited no questions from the Council.

Mr. Bates gave a brief report on the Plan Commission session of January 24th.

Mr. Deer mentioned that the Economic Development Commission adopted tax abatement procedures at their meeting last week and the Redevelopment Commission will consider its adoption and support when they meet tomorrow at 4:30 p.m. The Council must approve these.

ORDINANCE No. 04-58 – An Ordinance Annexing Certain Territory Within the Area of Extended Jurisdiction of the City of Greenwood, Indiana, Placing the Same Within the Corporate Boundaries Thereof and Making the Same a Part of the City of Greenwood and Redefining the Corporate Boundaries of the City of Greenwood, Indiana, Approximately 85.4 Acres Located Approximately ¼ Mile East of Honey Creek Road on the North Side of Cutsinger Road and East of Alden Place Subdivision (commonly known as the Bright Property). **POSTPONED UNTIL FEBRUARY 21, 2005 MEETING FOR FIRST READING AND PUBLIC HEARING.**

ORDINANCE No. 04-60 – An Ordinance Annexing Certain Territory Contiguous to the City of Greenwood, Indiana, Placing the Same Within the Corporate Boundaries Thereof and Making the Same a Part of the City of Greenwood and Redefining the Corporate Boundaries of the City of Greenwood, Indiana, Approximately 9.328 Acres Located on the South Side of Smith Valley Road and West of the Existing Home Depot Store, and Commonly Known as the Jerry Taylor and Shepherd's Grove Development, Inc. Property. **POSTPONED UNTIL FEBRUARY 21, 2005 MEETING FOR FIRST READING AND PUBLIC HEARING.**

ORDINANCE No. 05-01 – An Ordinance to Amend the Official Zoning Map Adopted by Reference in Zoning Ordinance No. 82-1 Entitled "An Ordinance Establishing Comprehensive Zoning Regulations for the City of Greenwood, Indiana, and Providing for the Administration, Enforcement, and Amendment Thereof, In Accordance With the Provisions of I.C. 36-7-4-600 et seq. Laws of Indiana, As Amended, and For the Repeal of All Ordinances in Conflict Herewith" (Proposed Rezoning of approximately 6.59 acres of land located on the southeast corner of 750 North and 125 West, commonly known as Church of the Nazarene Property). Mr. Deer moved to pass Ordinance No. 05-01 through first reading. Second by Mr. Bates. Pastor Steve Rhodes gave a brief history of the church and told the Council that they purchased the subject property about three years ago and intend to build a church. Pastor Rhodes had copies of the zoning site plan for Council members and discussed their preferences for the commercial site. Mayor Henderson indicated that the church had been asked to dedicate right-of-way for the proposed road work. The City would straighten out the curves as funding allowed and would also use the right-of-way to connect some of the walking trails, added the Mayor. Pastor Rhodes discussed the phases of their

proposed project. Mr. Bates reported that the Plan Commission gave a favorable 6 – 1 recommendation. Vote: Ayes. **ORDINANCE No. 05-01 PASSED FIRST READING.**

ORDINANCE No. 05-02 – An Ordinance Providing For an Additional Appropriation From the Cumulative Capital Improvement Fund – Tax Levy (\$1,000,000) to the Board of Public Works and Safety For Reconstruction and Repair of a Portion of Streets Located in the Northern Park Subdivision. Mr. Hardin moved to pass Ordinance No. 05-02 on first reading. Second by Mr. Gibson. Mayor Henderson opened the public hearing for comments and questions from the audience. As no one spoke, the public hearing was closed. In response to the Mayor, Director of Operations Norm Gabehart stated that bid specifications are being put together for this project and staff is trying to parallel the work with a sanitary sewer project in that area. Staff would like to have the specifications ready by the end of February, but more information needs to be gathered. Staff is also looking at how roads have been affected by the winter and will get a list ready to present to Council. This led to a discussion of the work in Northern Park, where there is a lot of lateral repair. Vote: Ayes. **PASSED FIRST READING.**

ORDINANCE No. 04-49 – An Ordinance Annexing Certain Territory Within the Area of Extended Jurisdiction of the City of Greenwood, Indiana, Placing the Same Within the Corporate Boundaries Thereof and Making the Same a Part of the City of Greenwood and Redefining the Corporate Boundaries of the City of Greenwood, Indiana, Approximately 82.27 Acres Located on the East Side of Honey Creek Road; ¼ Mile South of Cutsinger Road and ¼ Mile North of Stones Crossing Road (commonly known as the Bertha E. Bertsch Revocable Trust Property). Mr. Bless moved to pass Ordinance No. 04-49 through second reading, with second by Ms. Reed. In response to Mr. Bates, the City Attorney noted that the original petition was for both R-2A and R-3 zoning with commitments offered. The Council rejected those commitments and the rezoning, saying they would annex it only as R-2, so those are the changes that were made, added counsel. Vote: Ayes. **PASSED SECOND READING.**

ORDINANCE No. 04-51 – An Ordinance Annexing Certain Territory Within the Area of Extended Jurisdiction of the City of Greenwood, Indiana, Placing the Same Within the Corporate Boundaries Thereof and Making the Same a Part of the City of Greenwood and Redefining the Corporate Boundaries of the City of Greenwood, Indiana, Approximately 82.3 Acres Located Approximately ¼ Mile South of Worthsville Road and West of Graham Road (commonly known as the Republic Development, LLC Property). Mr. Bates moved to pass Ordinance No. 04-51 on second reading. Mr. Hardin seconded. The fourth WHEREAS clause was deleted, as rezoning had passed. Vote: Ayes. **PASSED SECOND READING.**

ORDINANCE No. 05-04 – An Ordinance Providing For an Additional Appropriation From the Cumulative Capital Improvement Fund – Cigarette Tax to the Board of Public Works and Safety (\$163,000) For Construction Costs of the Meridian Street Rehabilitation Project. Mr. Gabehart recapped the project and explained change orders. **INTRODUCED.**

RESOLUTION No. 05-01 – A Resolution of the Greenwood Common Council to Amend Greenwood Common Council Resolution No. 04-34 Entitled “A Resolution of the Greenwood Common Council to Adopt the Written Fiscal Plan for the Annexation of Approximately 9.328 Acres Located on the South Side of Smith Valley Road and West of Existing Home Depot, Referencing Annexation Ordinance No. 04-60”, to Correct Typographical Errors. **INTRODUCED.** Ms. Koons-Davis clarified that they discovered a typographical error regarding the acreage in the WHEREAS clause which needs to be corrected. The wrong annexation ordinance was also referenced. She requested a suspension of the rules, as the hearing and first reading for the annexation is on the agenda for the next meeting and the resolution is to be adopted and a summary sent out before that. Mr. Bless moved to suspend the rules in order to consider first reading. Second by Mr. Deer. Vote: Ayes: (Gibson – recused). **RULES SUSPENDED.** Mr. Armstrong moved to pass Resolution No. 05-01 on second reading. Second by Mr. Bates. Vote: Ayes (Gibson – recused). **PASSED FIRST READING.** Mr. Deer then moved to suspend the rules in order to consider second reading. Second by Mr. Bless. Vote: Ayes (Gibson – recused). **RULES SUSPENDED.** Mr. Bates then moved to pass Resolution No. 05-01 on second reading. Second by Mr. Armstrong. Vote: Ayes (Gibson – recused). **RESOLUTION No. 05-01 PASSED SECOND READING.**

ORDINANCE No. 05-03 – An Ordinance Amending the Greenwood Municipal Code (1993), As Amended, Article 5, Section 8-45 to Alter Speed Zones (Reserve at Timbers Edge Subdivision). This was requested by Councilman Bates, recounted the City Attorney, but when she checked the plat the street names did not match the street signs, so the plat had to be revised. This has been done. **INTRODUCED.**

Under miscellaneous business, Mr. Hardin moved to waive the requirement of Ordinance No. 99-10, Section 2, Paragraph B, to allow the Police Chief appointment to proceed. He then cited that reference. Second by Mr. Armstrong. Ms. Koons-Davis was asked to give her opinion. Her research led her to believe that we have always deferred to the State Code. Other references led her to believe there is a separation of power issue, that when a power is exercised by one branch of government, it may not be excised by another. The City Attorney has concluded that it was the intention of the State legislature to vest that power in the Mayor, to take it away from the Council (they have no other executive functions and by law can never take any sort of jurisdiction over the Police or Fire departments). Mr. Hardin saw no harm in waiving the requirement as the ordinance is still in effect. Mr. Deer related that the Council was advised approximately two years ago by legal counsel that a local ordinance does not override State law, and we were subsequently sued. Mr. Hardin invited the counsel for the Merit Commission, Linda Meier, to come forward, which caused the Mayor to object to any member of the Police Merit Commission becoming involved in this debate. Mayor Henderson replied to Mr. Hardin that by statute the Mayor is to run the Council meeting. He informed the Council that he is willing to have the debate and have the Council take a vote. Mayor Henderson was going to suggest that they take a vote, which he noted would not be binding on him, and said he would direct the City Attorney to get the opinion of the Attorney General. He then reiterated it was unfair to bring the Merit Commission, which deals with other issues that the Chief has to stay abreast of, to get involved in this debate. The City Attorney explained that the Merit Commission has no jurisdiction over the Chief, the Assistant Chief or the Deputy Chief, who are policy makers. The former Assistant City Attorney drafted the 1999 Ordinance to change the salary ordinance to add more positions to the Police Department, explained Ms. Koons-Davis, and not to change the substantive language of that section. Mr. Deer commented that he thought the Council was "going down a slippery slope" by attempting to vote on something they have no legislative authority to vote on and added he would abstain from voting. Vote on motion: Ayes (Deer – Abstain). Motion carried.

Mr. Armstrong, in discussing the amendment for the 2005 salary ordinance, recalled that raises were to be 2.1% and he has found several that were higher, most in Court and Probation. Mr. Bates recounted that there were some salaries regulated by State statute in order to be certified. Mr. Armstrong will contact Judge Gregory.

Mr. Armstrong mentioned receiving a copy of the Senior Citizens Center contract, which comes out of the Council budget, and wondered why the Mayor had signed. Ms. Koons-Davis explained that by statute the Mayor must sign all contracts on behalf of the City, as one of his executive functions. Ms. Reed did not remember seeing a copy of a signed contract and thought the contract should be signed by the President of the Council. Ms. Koons-Davis will add a signature line for the signature of the President. Mayor Henderson mentioned that when he recently sent letters to our representatives about tax abatement, he had both the Mayor's signature line and the President of the Council's signature line put on them. Ms. Reed requested a copy of the letters. Ms. Myers will get a copy of the letters to her.

Mr. Gibson asked about cell phone numbers of department heads, as he had a great deal of difficulty in trying to reach an individual last week. Mayor Henderson took that request.

The City Attorney presented Uniform Conflict of Interest Disclosure Statements for the following:

Clinton E. Ferguson, Director of Planning, Zoning, Research & Development, for his wife Barbara, for any interest he might have in her earnings;

Barbara Ferguson, for her husband Ed, for any interest she might have in his earnings;

Thomas Douglas Wood, patrolman for the Greenwood Police Department, for his wife Jennifer Marie Wood, also employed by the Police Department, for any interest he might have in her earnings;

Jennifer Marie Wood, for her husband Thomas Douglas Wood, for any interest she might have in his earnings;

Angela Corwin, employed by the Parks Department, for her husband Joseph, who occasionally works for the Parks Department, for any interest she might have in his earnings;

Joseph Corwin for his wife Angela, for any interest he might have in her earnings;

David Payne, Captain in the Greenwood Police Department, for his wife Garnet Vaughan, who is a member of the Redevelopment Commission, for any interest he might have in her earnings;

Jeff Madsen of the Parks Department, for his wife Carmen Madsen, a member of the Plan Commission, for any interest he might have in her earnings;

and Carmen Madsen, for her husband Jeff Madsen, for any interest she might have in his earnings.

Mr. Gibson moved to accept these Uniform Conflict of Interest Statements as presented in order that they might be filed with the State. Second by Mr. Bates. Vote: Ayes. Motion carried.

Next Ms. Koons-Davis mentioned the memo regarding the Precedent Industrial Group 2004 compliance form. She asked if the Council wanted a presentation or wanted to act tonight. Mr. Bless moved to find Precedent Industrial Group in compliance. Second by Mr. Bates. There was discussion on how they would be affected by tax abatement guidelines. Mr. Deer said it still would have been eligible for consideration. Vote: Ayes. Motion carried.

Mayor Henderson discussed the turn lane at Emerson Avenue and Main Street. He reported that he got notice today on moving the traffic signals from Midwestern Electric – approximately \$39,000. Mr. Gabehart is getting numbers for lane building – both in house and private contractor while they are in the City. The first step is moving the utilities, he said. Mayor Henderson indicated that it is his intention to have an ordinance prepared for an additional appropriation to move the utilities. In the meantime, staff would work on getting figures for the road work.

March 5th is the Mayor's Prayer Breakfast at Jonathan Byrd's. They would like everyone to be seated by 8:00 a.m. Those interested can contact Gene Nix.

Mayor Henderson at this time invited Police Chief designee Joe Pitcher to come forward and swore him in as the new Chief of Police. Chief Pitcher then addressed issues regarding part-time employment. He told the Council he has not had a criminal case since 1988; he doesn't represent criminal or divorce cases. He does a limited amount of work for municipalities, noting that he has not done even 10 hours total work for the fire departments. He does not bill them and would like to continue the pro bono work. Mr. Pitcher's start date will be February 15th.

With no further business, the meeting adjourned at 8:00 p.m.